

## REMARKS

In accordance with the above amendments, claims 1 and 9 have been amended, claims 1-19 remain under consideration in the application and no claim has been allowed.

The amendments to claims 1 and 9 have been done to clarify the description of the parts being claims and are, in part, as suggested by the Examiner.

By way of further explanation, applicants' invention has to do with an innovation in which the normally protruding fixed-position material receiving recess or loading hopper of a rear loading refuse truck body is enabled to pivot upward or retract so that it no longer protrudes and truck bodies are then stackable as container boxes without the tailgate loading or receiving hopper interfering. Thus, in the applicants' truck body, the loading hopper 28 is a receptacle that is a permanent part of the tailgate assembly. The loading or receiving hopper does not move during collection efforts. The only way that it is emptied during collection is by the operation of a packing mechanism permanently mounted within the tailgate. The refuse containers being emptied into the loading or receiving hopper form no part of the invention nor are they part of applicants' claims. This is clear from both the figures and the description.

It is noted that claims 1-3, 6, 8-12 and 14 have once again been rejected under 35 U.S.C. § 102(b) as being anticipated by

Colin (USPN 4,406,573). This rejection is respectfully traversed. In this regard, applicants offer some additional explanation.

The Examiner continues to assert that "barrel of rubbish" 22 disclosed in the Colin '573 reference is equivalent to applicants' loading hopper. Barrel 22 is not part of the truck of the reference and no equivalent is found in the description or figures of the present application. It is simply a receptacle being emptied into a loading or receiving hopper 7. The loading or receiving hopper 7 clearly is fixed in position and not retractable as is clearly shown in Figures 2-7 of the reference. It is further clear from Figures 1 and 2 of the present application that applicants' loading/receiving hopper does rotate up and inside the upper tailgate structure for storage. As indicated, emptying of containers, such as container 22, forms no part of the present invention. This distinction should be clear in reading applicants' amended claims in light of the specification and drawings.

Based on the above and applicants' earlier remarks, it is believed, for example, that the cited reference does not meet the limitations of part (b) of claim 1 or part (c) of claim 9 which clearly require the loading hopper itself be movable pivoting from an extended or deployed position to a retracted or stowed position relative both to the large storage receptacle and the tailgate. Colin '573 fails to disclose this feature. Accordingly, for this and other reasons, Colin '573 does not meet the requirements for

rejection under 35 USC § 102(b) as being anticipatory of applicants' broadest claims and, therefore, cannot be anticipatory of any of applicants' claims. The Examiner is respectfully requested to reconsider and withdraw this rejection.

The claim rejections under 35 USC § 103(a) based on Colin '573, above, and further in view of Sjostdet (USPN 5,678,715) are also respectfully traversed. It is believed that Colin '573 does not disclose or suggest the presently claimed invention and Sjostdet '715 adds nothing that would make even the broadest claims obvious. Therefore, any details added by Sjostdet '715 do not make up for the deficiencies in the primary reference. Withdrawal of this rejection is also respectfully requested.

It should further be noted that the present independent claims, claims 1 and 9, as amended, also distinguish over Oelberg (USPN 4,164,293). The claims better define the loading hopper and require the packing system is located and operates within the loading hopper and pivots with the loading hopper back into the opening leaving a container-shaped configuration. Thus, while the tail gate 29 of Oelberg pivots it does not contain a packing system nor does pivoting tail gate 29 enable a formation of a "stackable container-shaped structure" as is the case with applicants' claimed device. Support for these amendments is found, for example, on page 4, lines 9-20.

In view of the above amendments, taken together with the

explanatory remarks herein, reconsideration, favorable action and early allowance of all the claims under consideration in the application are respectfully requested.

If any minor matters remain, it is requested that the Examiner contact the undersigned by telephone so that possible minor changes may be discussed and resolved in order to expedite the prosecution of this case.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.

A handwritten signature in cursive script, appearing to read "C. G. Mersereau".

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### CERTIFICATE OF MAILING

I hereby certify that the foregoing Amendment in response to the final Official Action of September 23, 2005 and an Advisory Action dated November 29, 2005 and a Transmittal Letter, in application Serial No. 10/619,009, filed on July 14, 2003, of Claudiu D. Pruteanu et al, entitled "REFUSE PACKER WITH RETRACTABLE LOADING HOPPER" are being sent by first class mail to: The Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on December 15, 2005.

April C. Nelson

Secretary to C. G. Mersereau  
Attorney for Applicant

Date of Signature: December 15, 2005.